

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION

DEFENDERS OF WILDLIFE and  
NATIONAL WILDLIFE REFUGE  
ASSOCIATION,

Plaintiffs,

v.

NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION; FEDERAL  
HIGHWAY ADMINISTRATION; JOHN F.  
SULLIVAN, III, Division Administrator,  
Federal Highway Administration; and  
ANTHONY J. TATA, Secretary, North  
Carolina Department of Transportation,

Defendants,

and

CAPE HATTERAS ELECTRIC  
MEMBERSHIP CORPORATION,

Intervenor-Defendant.

No. 2:11-cv-35-FL

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**JOINT STIPULATION OF VOLUNTARY DISMISSAL WITH PREJUDICE  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(ii)**

Plaintiffs, Defenders of Wildlife and the National Wildlife Refuge Association (the “Conservation Groups”), Defendants, the North Carolina Department of Transportation (“NCDOT”), NCDOT Secretary Anthony J. Tata, the Federal Highway Administration (“FHWA”), FHWA North Carolina Division Administrator John F. Sullivan, and Intervenor-Defendant, Cape Hatteras Electric Membership Corporation (“Intervenor-Defendant”) (collectively “the Parties”), hereby stipulate to dismissal of this case with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

The Parties stipulate as follows:

- 1) The Conservation Groups challenged the FHWA's December 20, 2010 Record of Decision for the Bonner Bridge project under the National Environmental Policy Act of 1969, 42 U.S.C. § 4321-4347, and Section 4(f) of the Department of Transportation Act. Dkt. 1.
- 2) This Court entered summary judgment in favor of Defendants on September 16, 2013. Dkt 99. Plaintiffs appealed from that decision to the U.S. Court of Appeals for the Fourth Circuit. The Fourth Circuit affirmed in part, reversed in part and remanded to this Court. *Defenders of Wildlife v. NCDOT*, 762 F.3d 374 (4th Cir. 2014).
- 3) The Parties subsequently entered into confidential settlement negotiations and reached an out of court settlement. A copy of the Settlement Agreement is attached to this dismissal solely to provide notice of the settlement but for no other purpose. The Parties agree that this matter is dismissed without any further judicial review.
- 4) The Settlement Agreement sets forth certain obligations to be accomplished by Defendant NCDOT prior to dismissal of this case. The Defendant NCDOT represents and all Parties, including Plaintiffs, agree that NCDOT has now fulfilled all of those obligations.

Therefore, the Parties jointly stipulate to voluntarily dismiss the above captioned case with prejudice. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), no judicial action is required.

Respectfully submitted this 11th day of August, 2015.

/s/ Derb S. Carter

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## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing Joint Stipulation of Voluntary Dismissal With Prejudice with the Clerk of Court using the CM/EMF system, which will send notification of such filing to the following:

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This 11th day of August, 2015.

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